

**JUDICIAL COUNCIL OF THE SIXTH CIRCUIT**  
**MICHIGAN-OHIO-KENTUCKY-TENNESSEE**

In re:  
Complaint of Judicial Misconduct

\*  
\*  
\*No. 06-19-90030  
\*  
\*  
\*  
\*

**MEMORANDUM AND ORDER**

This complaint of judicial misconduct was filed by **[REDACTED]** (“complainant”) against the Honorable **[REDACTED]** (“subject judge”), pursuant to 28 U.S.C. § 351. The complaint alleges that the subject judge entered certain orders to retaliate against the complainant for his filing of an earlier misconduct complaint.

After conducting an initial review, the chief judge may dismiss a misconduct complaint as to which he concludes: (A) that the claimed conduct, even if it occurred, “is not prejudicial to the effective and expeditious administration of the business of the courts”; (B) that the complaint “is directly related to the merits of a decision or procedural ruling”; (C) that the complaint is “frivolous,” a term that applies to charges that are wholly unsupported; or (D) that the complaint “lack[s] sufficient evidence to raise an inference that misconduct has occurred.” Rule 11(c)(1)(A)-(D), Rules for Judicial-Conduct and Judicial-Disability Proceedings; see 28 U.S.C. § 352(a), (b).

An initial review of the record reveals that the complainant filed a misconduct complaint against the subject judge in 2015. The chief judge dismissed that complaint, and the judicial council affirmed the dismissal. Meanwhile, the complainant filed a civil action that was assigned to the subject judge. The subject judge denied the complainant’s motion for leave to proceed in forma pauperis and then entered an administrative order reassigning the case to another judge. (Eventually, the judge to whom the case was reassigned dismissed it for nonpayment of the filing fee.)

This misconduct complaint alleges that the subject judge retaliated against the complainant by (1) denying him pauper status and (2) reassigning his civil action. These allegations are subject to dismissal under Rule 11(c)(1)(B) as directly related to the merits of the subject judge’s orders. See *also* 28 U.S.C. § 352(b)(1)(A)(ii). Any challenge to the merits of a judge’s rulings is outside the scope of judicial-misconduct proceedings. See Rule 4(b)(1), Rules for Judicial-Conduct and Judicial-Disability Proceedings. The Judicial Council is not a court and has no jurisdiction to review any

decision by a judge. See *In re Complaint of Judicial Misconduct*, 858 F.2d 331, 331-32 (6th Cir. 1988).

Moreover, the complaint's allegations of retaliatory motive and "personal animosity" are subject to dismissal under Rule 11(c)(1)(C) as wholly unsupported by the record. See also 28 U.S.C. § 352(b)(1)(A)(iii).

Accordingly, it is **ORDERED** that the complaint be dismissed pursuant to 28 U.S.C. § 352(b)(1)(A)(ii) & (iii) and Rule 11(c)(1)(B) & (C) of the Rules for Judicial-Conduct and Judicial-Disability Proceedings.

/s/ R. Guy Cole, Jr.  
Chief Judge

Date: February 18, 2020